IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPLICATION NO.13 OF 2002

The Commissioner of Income tax ..Applicant.

V/s.

M/s.G.Vardan Pvt. Ltd. ..Respondent.

Mr.A.N.Kotangle for applicant.
None for respondent.

CORAM : DR. S.RADHAKRISHNAN AND J.P.DEVADHAR, JJ.

DATED : 29TH JANUARY, 2007.

P.C. :-

Heard learned counsel for the applicant. In the above application, following substantial question of law is sought to be raised.

> " Whether on the facts and in the circumstances of the case, the Tribunal was right in law in allowing assessee's claim for set off of unabsorbed depreciation against the income under the head capital gains even though the relevant business is no longer in existance ?

2. The Tribunal has relied on the Judgment of this Court in the case of **Commissioner of Income Tax, Bombay City II V/s. Estate & Finance Ltd.** reported in **111 I.T.R. 199**. In view of the decision since issue is already covered in favour of the assessee by the aforesaid Judgment of our High Court, no substantial question of law arises. Hence application is dismissed.

(DR.S.RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)